

**HOLLINGS STATEMENT -- INTERNET PRIVACY HEARING ON JULY 11,
2001.**

WELL - TO QUOTE FORMER PRESIDENT REAGAN - HERE WE GO AGAIN. TODAY THE COMMERCE COMMITTEE WILL HOLD ITS FIRST HEARING ON INTERNET PRIVACY. IT IS PAST TIME FOR ACTION ON THIS ISSUE, AND I INTEND TO INTRODUCE AND REPORT LEGISLATION TO THE FULL SENATE BEFORE THE END OF THIS SESSION.

LAST YEAR, AFTER FIVE YEARS OF DILIGENT STUDY, THE FEDERAL TRADE COMMISSION RECOMMENDED THAT CONGRESS PASS INTERNET PRIVACY LEGISLATION THAT REFLECTS THE TIME-HONORED FAIR INFORMATION PRACTICES OF NOTICE, CONSENT, ACCESS, AND SECURITY. THIS RECOMMENDATION WAS PARTICULARLY CREDIBLE IN LIGHT OF THE FTC'S RECORD OF EXTENSIVE ANALYSIS ON THIS ISSUE AND ITS TWO PRIOR RECOMMENDATIONS TO ALLOW SELF-REGULATION A CHANCE TO WORK. WHERE DID SELF-REGULATION GET US? NOWHERE. AS BUSINESS WEEK STATED LAST YEAR, "SELF REGULATION IS A SHAM."

ACCORDING TO FORMER FTC CHAIRMAN ROBERT PITOFSKY, "SOME SITES BURY YOUR RIGHTS IN A LONG PAGE OF LEGAL JARGON SO ITS HARD TO FIND THEM AND HARD TO UNDERSTAND THEM ONCE YOU FIND THEM. SELF-REGULATION THAT CREATES OPT-OUT RIGHTS THAT CANNOT BE FOUND OR UNDERSTOOD IS NOT REALLY AN ACCEPTABLE FORM OF CONSUMER PROTECTION." LOOK NO FURTHER THAN YOUR MAILBOX TO SEE THAT THIS IS THE CASE.

PURSUANT TO THE GRAMM-LEACH-BLILEY FINANCIAL PRIVACY RULES, AMERICANS HAVE BEEN RECEIVING LITERALLY BILLIONS OF NOTICES IN THE MAIL ALERTING THEM THAT THEY CAN OPT-OUT OF THE SHARING OF THEIR PERSONAL FINANCIAL INFORMATION BY FINANCIAL

INSTITUTIONS WITH THIRD PARTIES. THESE NOTICES MAKE A MOCKERY OF THE CLAIM THAT NOTICE AND OPT-OUT PROVIDES SUFFICIENT PROTECTION.

LET ME QUOTE FROM THE COVER LETTER ACCOMPANYING ONE OF THESE NOTICES -

"WE RECOGNIZE THAT PRIVACY IS A VERY SENSITIVE AND IMPORTANT MATTER . . . [AND] ADHERE TO STRICT STANDARDS OF SECURITY, CONFIDENTIALITY, AND PRIVACY WITH REGARD TO CONSUMER INFORMATION . . . IF YOU ARE COMFORTABLE WITH [OUR] HANDLING OF INFORMATION WE COLLECT, YOU DO NOT NEED TO TAKE ANY ACTION AT THIS TIME."

THAT SOUNDS PRETTY GOOD, YOUR INFORMATION APPEARS TO BE SAFE AND PRIVATE. BUT THE ATTACHED NOTICE INFORMS YOU THAT THE COMPANY

"RESERVES THE RIGHT TO SHARE ALL INFORMATION WE COLLECT . . . [INCLUDING WITH] FINANCIAL SERVICE PROVIDERS, MORTGAGE-BANKERS-BROKERS, SECURITIES BROKER DEALERS, INDIRECT LOAN ORIGINATORS, CORRESPONDENT LENDERS, TRANSACTION PROCESSORS, INSURANCE AGENT/COMPANIES, . . . RETAILERS, OTHERS, SUCH AS NON-PROFIT ORGANIZATIONS."

TAKEN TOGETHER, THE COVER LETTER AND THE ATTACHED NOTICE ARE IN DIRECT CONFLICT AND ARE DECEPTIVE. QUITE CLEARLY, THIS IS CONCRETE EVIDENCE OF WHY OPT-OUT DOESN'T WORK. AND, IF IT WON'T WORK WHEN THEY MAIL YOU THE NOTICE, IT CERTAINLY WON'T WORK ON THE INTERNET WHEN THE NOTICE IS BURIED BEHIND A LINK AT THE BOTTOM OF A WEB PAGE.

CLEARLY WE NEED LEGISLATION THAT REQUIRES NOTICE, AFFIRMATIVE CONSENT, REASONABLE ACCESS, AND REASONABLE SECURITY TO PROTECT INDIVIDUALS ONLINE. SUCH AN APPROACH WOULD NOT REPRESENT, AS INDUSTRY CONTENDS, A DANGEROUS AND UNPRECEDENTED REGULATION OF THE INTERNET, BUT RATHER, A LOGICAL EXTENSION OF EXISTING PRIVACY LAWS TO THIS NEW MEDIUM. CONGRESS HAS ENACTED NUMEROUS STATUTES TO PROTECT THE PRIVACY OF TELEPHONE CUSTOMERS, CABLE SUBSCRIBERS, VIDEO RENTERS, AND CREDIT CARD CUSTOMERS. THE INTERNET SHOULD BE NO DIFFERENT.

POLL AFTER POLL INDICATES THAT THE PUBLIC WANTS THIS LEVEL OF PROTECTION. ADVANCES IN TECHNOLOGY HAVE PROVIDED INFORMATION GATHERERS THE TOOLS TO SEAMLESSLY COMPILE AND ENHANCE HIGHLY DETAILED PERSONAL PROFILES AND HISTORIES. MOREOVER, NEWS REPORTS REGULARLY INFORM US OF PRIVACY BREACHES OF SENSITIVE INFORMATION ON THE INTERNET.

LAST WEEK, WE LEARNED THAT ELI LILLY INADVERTENTLY DISCLOSED A LIST OF HUNDREDS OF CUSTOMERS SUFFERING FROM DEPRESSION, BULIMIA, AND OBSESSIVE COMPULSIVE DISORDER. ELI LILLY'S RESPONSE? AN APOLOGY, AND A PROMISE IT WON'T HAPPEN AGAIN. A YEAR AGO, THE NEW YORK TIMES REPORTED THAT 19 OF THE TOP 21 HEALTH SITES ON THE INTERNET HAD PRIVACY POLICIES BUT "FAILED TO LIVE UP TO PROMISES NOT TO SHARE INFORMATION WITH THIRD PARTIES."

OBVIOUSLY, FEARS ABOUT PRIVACY ARE PREVENTING THE INTERNET FROM REACHING ITS FULL POTENTIAL. SOME STUDIES INDICATE THAT AS MANY AS 20 PERCENT OF ALL INTERNET USERS GIVE FALSE INFORMATION ONLINE TO PROTECT THEIR PRIVACY. BUT THERE IS A SOLUTION - PRIVACY PROTECTION. ENACTING PRIVACY LEGISLATION WILL ENHANCE CONSUMER CONFIDENCE IN THE MEDIUM AND BOOST E-COMMERCE. FORRESTER RESEARCH ESTIMATES THAT AS MUCH

AS \$12 BILLION IN ONLINE SALES ARE LOST ANNUALLY DUE TO CONCERNS OVER PRIVACY. WE CAN CHANGE THAT.

AS FOR INDUSTRY CLAIMS THAT OPT-IN KILLS THE INTERNET, THEY ARE JUST WHISTLING DIXIE. FOR EXAMPLE, A RECENT ARTHUR ANDERSON SURVEY REPORTED THAT 74 PERCENT OF PEOPLE WILL BE HAPPY TO OPT-IN TO SHARE THEIR PERSONAL MARKETING INFORMATION, IF THEY BELIEVE THEY WILL RECEIVE SOMETHING IN RETURN.

SOME FORWARD THINKING COMPANIES ALREADY KNOW THIS. THE NEW YORK TIMES, MICROSOFT, INTEL, HEWLETT PACKARD, EXPEDIA, ALTA VISTA, AND EARTHLINK ALL PROVIDE OPT-IN PROTECTION, REASONABLE ACCESS TO PERSONAL INFORMATION THAT HAS BEEN COLLECTED, AND REASONABLE SECURITY FOR THAT INFORMATION. MOREOVER, I NOTE THAT SOME OF THESE COMPANIES, MICROSOFT, INTEL, HEWLETT PACKARD, AND ONE OF THE LARGEST DATA COLLECTION COMPANIES - AXCION - HAVE ALL SIGNED ON TO THE EU SAFEHARBOR, WHICH REQUIRES NOTICE, OPT-IN FOR SENSITIVE INFORMATION, ACCESS AND SECURITY.

IF THEY CAN DO IT, WE CAN LEGISLATE IT - BY ESTABLISHING FEDERAL STANDARDS THAT CODIFY THESE "BEST PRACTICES." AND, IF WE COUPLE THAT PRIVACY PROTECTION WITH PREEMPTION, WHICH I AM ALWAYS CAUTIOUS ABOUT. CONGRESS CAN FOSTER BUSINESS CERTAINTY AND CONSUMER CONFIDENCE AND ALLOW THE INTERNET TO FLOURISH.

I WANT TO PUT TO REST FEARS THAT SOMEHOW LEGISLATION WILL SHACKLE THE INTERNET. THE EXPERTS KNOW THAT IS NOT TRUE. JOHN CHAMBERS OF CISCO SYSTEMS PREDICTS THAT BY 2010, A QUARTER OF THE WORLD'S GLOBAL COMMERCE WILL BE CONDUCTED ON THE INTERNET. AND FORRESTER RESEARCH GROUP PREDICTS THAT OVER

\$180 BILLION IN ONLINE SALES WILL OCCUR BY 2004. NO
LEGISLATION COULD EVER STOP, STIFLE, OR THWART THIS INEVITABLE
PROGRESS.

I LOOK FORWARD TO WORKING WITH MY COLLEAGUES ON THIS
COMMITTEE TO CRAFT LEGISLATION IN THIS AREA. LAST CONGRESS,
NEARLY A MAJORITY OF THE COMMITTEE COSPONSORED LEGISLATION IN
THIS AREA. THIS YEAR LETS FINISH THE JOB.